

## **2013 DRAFTING REQUEST**

### **Assembly Amendment (AA-AB40)**

Received:	<b>5/10/2013</b>	Received By:	<b>mkunkel</b>
Wanted:	<b>As time permits</b>	Same as LRB:	
For:	<b>Legislative Fiscal Bureau</b>	By/Representing:	<b>Olin (RR)</b>
May Contact:		Drafter:	<b>mkunkel</b>
Subject:	<b>Public Util. - misc.</b>	Addl. Drafters:	<b>agary</b>
		Extra Copies:	<b>EVM</b>

Submit via email: **YES**  
Requester's email: **Legislative Fiscal Bureau**  
Carbon copy (CC) to:

---

#### **Pre Topic:**

LFB:.....Olin (RR) -

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#### **Topic:**

Utility relocation costs to accomodate urban rail transit systems

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#### **Instructions:**

See attached

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#### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 5/10/2013	wjackson 5/10/2013		_____			
/P1	mkunkel 6/5/2013		phenry 5/13/2013	_____	srose 5/13/2013		
/P2		jdyer 6/5/2013	jfrantze 6/5/2013	_____	mbarman 6/6/2013		

FE Sent For:

**<END>**

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/?	mkunkel 5/10/2013	wjackson 5/10/2013					
/P1			phenry 5/13/2013		srose 5/13/2013		

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/?	mkunkel	/p1 WLJ 5/10	SAC WLI	5/13 phl JFC			
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FE Sent For:

<END>

## Kunkel, Mark

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**From:** Gary, Aaron  
**Sent:** Thursday, May 09, 2013 2:37 PM  
**To:** Kunkel, Mark  
**Subject:** FW: Motion 115  
**Attachments:** 115.pdf

Did you get this one already?

---

**From:** Runde, Al  
**Sent:** Thursday, May 09, 2013 2:23 PM  
**To:** Gary, Aaron  
**Subject:** FW: Motion 115

Aaron this passed as a budget motion today. I think you drafted the mass transit part already.

Al

---

**From:** Reinhardt, Rob  
**Sent:** Thursday, May 09, 2013 2:13 PM  
**To:** Runde, Al; Ammerman, Fred  
**Cc:** RO ([Rick.Olin@legis.wisconsin.gov](mailto:Rick.Olin@legis.wisconsin.gov))  
**Subject:** FW: Motion 115

I think you're aware of this, but this motion passed under PSC today.

---

**From:** Swain, Sandy  
**Sent:** Thursday, May 09, 2013 2:13 PM  
**To:** Reinhardt, Rob  
**Subject:** Motion 115

PUBLIC SERVICE COMMISSION

Utility Relocation Costs to Accommodate Urban Rail Transit Systems

Motion:

Move to modify current law provisions pertaining to Public Service Commission (PSC) review of any municipal regulation of the use of any public right-of-way by a company or a public utility for transmission lines or for other public utility purposes, as follows: (a) define municipal regulation as any contract, ordinance, resolution, order, or other regulation entered into, enacted, or issued by a municipality before, on, or after the bill's general effective date; (b) specify that a municipal regulation is unreasonable if it requires a company or public utility, including a telecommunications provider or video service provider, to pay any part of the cost to modify or relocate the company's facilities to accommodate an urban rail transit system; (c) require the PSC, upon complaint by a public utility, a telecommunications provider, including an alternative telecommunications utility, a video service provider, or any qualified complainant, to set a hearing and, determine if the municipal regulation is reasonable or unreasonable; and (d) provide that if the PSC finds any municipal regulation relating to any product or service rendered by any such provider within a municipality or relating to the terms and conditions upon which such provider occupies the streets, highways, or other public places within the municipality, to be unreasonable, the municipal regulation shall be void.

In addition, delete the urban rail transit program administered by the Department of Transportation (DOT), and the appropriations established to provide funding for the program.

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Note:

The PSC currently has an open docket (5-DR-109) for the purpose of determining "whether the City of Milwaukee or We Energies is responsible for any costs of modifying or relocating utility facilities in order to accommodate the construction of a Milwaukee streetcar line." A number of other entities, including other public utilities, filed requests for intervention with the Commission, and the PSC subsequently recognized them as parties in the docket. This proposal would make the docket "moot" because the proposal would require all such relocation costs to be borne by the City.

This proposal is identical to LRB 2056/4. The Legislative Reference Bureau provides the following analysis of this proposal:

"Under current law, the Department of Transportation (DOT) administers an urban rail transit system program (program) to plan, design, and engineer urban rail transit systems for urban areas in the state. An 'urban rail transit system' is a system, either publicly or privately owned, to provide transportation by rail to the public on a regular and continuing basis. An 'urban area' is an area that includes a municipality with a population of 50,000 or more and that is appropriate, in DOT's judgment, for an urban rail transit system. Under the program, upon completion of a planning study for an urban rail transit system in an urban area or a multimodal transportation study, a political subdivision in a county that includes an urban area may apply to DOT for, and DOT may make, a grant for property acquisition for an urban rail transit system. This bill repeals the program and the appropriations established to provide funding for the program.

Current law also authorizes a city, village, or town (municipality) to impose reasonable regulations on use of rights-of-way by certain persons, including certain domestic corporations, cooperative associations, telecommunications providers, and video service providers. Under the bill, a municipal regulation under that authority may not require such a person to pay any part of the cost to modify or relocate the person's facilities to accommodate an urban rail transit system. The bill defines 'municipal regulation' as any contract, ordinance, resolution, order, or other regulation entered into, enacted, or issued by a municipality before, on, or after the bill's effective date. The bill also provides that the foregoing requirements apply to any corporation, not just a domestic corporation, and apply to other business entities, such as limited liability companies and partnerships.

Current law also allows the Public Service Commission (PSC) to review complaints about the reasonableness of a municipality's regulation of a public utility's product, service, or occupation of streets, highways, or other public places within the municipality. If the PSC finds that the regulation is unreasonable, the regulation is void. The bill specifies that such a regulation is unreasonable, and therefore void, if it requires a public utility to pay any part of the cost to modify or relocate the public utility's facilities to accommodate an urban rail transit system. In addition, the bill specifies that the foregoing requirements apply to video service providers, as well as to public utilities regulated as alternative telecommunications utilities by the PSC. Also, the foregoing requirements apply to a 'municipal regulation,' which is defined as described above."

2013

Date (time)  
needed \_\_\_\_\_

LRB b 0071 1P1

**LFB BUDGET AMENDMENT  
[ONLY FOR LFB]**

MDT <sup>SACT</sup> ARG: WJ :

RM NOT  
RUN

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**LFB AMENDMENT  
TO 2013 ASSEMBLY BILL 40**

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

At the locations indicated, amend the bill as follows:

#. Page 352, line 5: *give that line insert 0*

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:





State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2056/4

ARG&MDK:sac:jf

## 2013 BILL

1 **AN ACT** *to repeal* 20.395 (1) (br), 20.395 (1) (bt), 85.063 (title) and (1) (intro.) and  
2 (b) and 85.063 (2) and (3); *to renumber* 85.063 (1) (c); *to renumber and*  
3 *amend* 196.58 (1) and 196.58 (4); *to amend* 182.017 (1g) (b) 1., 182.017 (8) (a)  
4 and 196.58 (6); and *to create* 182.017 (1g) (bm), 182.017 (8) (as), 196.58 (1g),  
5 196.58 (4) (b) and 196.58 (4) (c) of the statutes; **relating to:** the Urban Rail  
6 Transit System Program administered by the Department of Transportation  
7 and municipal authority regarding urban rail transit systems.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Transportation (DOT) administers an urban rail transit system program (program) to plan, design, and engineer urban rail transit systems for urban areas in the state. An "urban rail transit system" is a system, either publicly or privately owned, to provide transportation by rail to the public on a regular and continuing basis. An "urban area" is an area that includes a municipality with a population of 50,000 or more and that is appropriate, in DOT's judgment, for an urban rail transit system. Under the program, upon completion of a planning study for an urban rail transit system in an urban area or a multimodal transportation study, a political subdivision in a county that includes an urban area may apply to DOT for, and DOT may make, a grant for property acquisition for an urban rail transit system. This bill repeals the program and the appropriations established to provide funding for the program.

**BILL**

Current law also authorizes a city, village, or town (municipality) to impose reasonable regulations on use of rights-of-way by certain persons, including certain domestic corporations, cooperative associations, telecommunications providers, and video service providers. Under the bill, a municipal regulation under that authority may not require such a person to pay any part of the cost to modify or relocate the person's facilities to accommodate an urban rail transit system. The bill defines "municipal regulation" as any contract, ordinance, resolution, order, or other regulation entered into, enacted, or issued by a municipality before, on, or after the bill's effective date. The bill also provides that the foregoing requirements apply to any corporation, not just a domestic corporation, and apply to other business entities, such as limited liability companies and partnerships.

Current law also allows the Public Service Commission (PSC) to review complaints about the reasonableness of a municipality's regulation of a public utility's product, service, or occupation of streets, highways, or other public places within the municipality. If the PSC finds that the regulation is unreasonable, the regulation is void. The bill specifies that such a regulation is unreasonable, and therefore void, if it requires a public utility to pay any part of the cost to modify or relocate the public utility's facilities to accommodate an urban rail transit system. In addition, the bill specifies that the foregoing requirements apply to video service providers, as well as to public utilities regulated as alternative telecommunications utilities by the PSC. Also, the foregoing requirements apply to a "municipal regulation," which is defined as described above.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 16 (B) 2909
- 1 SECTION 1. 20.395 (1) (br) of the statutes is repealed.
- 2 (B) 2905
- 2 SECTION 2. 20.395 (1) (bt) of the statutes is repealed. // ✓
- ✓ # Page 758, line 4 after that line insert (C)
- 3 SECTION 3. 85.063 (title) and (1) (intro.) and (b) of the statutes are repealed.
- 3 (B) 1564 (B) 1564M
- 4 SECTION 4. 85.063 (1) (c) of the statutes is renumbered 182.017 (1g) (ct).
- 5 (B) 1564S
- 5 SECTION 5. 85.063 (2) and (3) of the statutes are repealed. // ✓
- ✓ # Page 881, line 20 after that line insert (C)
- 6 SECTION 6. 182.017 (1g) (b) 1. of the statutes is amended to read:
- 6 (B) 1978d
- 7 182.017 (1g) (b) 1. A domestic corporation, limited liability company,
- 8 partnership, or other business entity organized to furnish telegraph or

**BILL****SECTION 6**

1 telecommunications service or transmit heat, power, or electric current to the public  
2 or for public purposes.

3 <sup>(B) 1978h</sup> ~~SECTION 7.~~ 182.017 (1g) (bm) of the statutes is created to read:

4 182.017 (1g) (bm) "Municipal regulation" means any contract, ordinance,  
5 resolution, order, or other regulation entered into, enacted, or issued by a  
6 municipality before, on, or after the effective date of this paragraph .... [LRB inserts  
7 date].

8 <sup>(B) 1978P</sup> ~~SECTION 8.~~ 182.017 (8) (a) of the statutes is amended to read:

9 182.017 (8) (a) Upon complaint by a company that a regulation by a  
10 municipality under sub. (1r) is unreasonable, the commission shall set a hearing and,  
11 if the commission finds that the regulation is unreasonable, the regulation shall be  
12 void. If Subject to pars. (am) to (c), if the commission determines that a municipal  
13 regulation that was in effect on January 1, 2007, and immediately prior to January  
14 9, 2008, or that a community standard, as demonstrated through consistent practice  
15 and custom in the municipality, that was in effect on January 1, 2007, and  
16 immediately prior to January 9, 2008, is substantially the same as the municipal  
17 regulation complained of, there is a rebuttable presumption that the latter  
18 regulation is reasonable.

19 <sup>(B) 1978t</sup> ~~SECTION 9.~~ 182.017 (8) (as) of the statutes is created to read:

20 182.017 (8) (as) A municipal regulation is unreasonable if it requires a  
21 company to pay any part of the cost to modify or relocate the company's facilities to  
22 accommodate an urban rail transit system. <sup>(B) 1978t</sup>

23 <sup>(B) 1978t</sup> ~~SECTION 10.~~ 196.58 (1) of the statutes is renumbered 196.58 (1r) and 196.58 (1r)

24 (a) and (c), as renumbered, are amended to read:

**BILL****SECTION 10**

1           196.58 (1r) (a) Determine by ~~contract, ordinance or resolution~~ municipal  
2 regulation the quality and character of each kind of product or service to be furnished  
3 or rendered by any public utility within the municipality and all other terms and  
4 conditions, consistent with this chapter and ch. 197, upon which the public utility  
5 may be permitted to occupy the streets, highways or other public places within the  
6 municipality. The ~~contract, ordinance or resolution~~ municipal regulation shall be in  
7 force and on its face reasonable.

8           (c) Provide a penalty for noncompliance with the provisions of any ~~ordinance~~  
9 ~~or resolution~~ municipal regulation adopted under this subsection.

10           <sup>(B) 19899</sup>  
SECTION ~~11~~. 196.58 (1g) of the statutes is created to read:

11           196.58 (1g) In this section, "municipal regulation" has the meaning given in  
12 s. 182.017 (1g) (bm).

13           <sup>(B) 1989L</sup>  
SECTION ~~12~~. 196.58 (4) of the statutes is renumbered 196.58 (4) (a) and  
14 amended to read:

15           196.58 (4) (a) Upon complaint made by a public utility or by any qualified  
16 complainant under s. 196.26, the commission shall set a hearing and if it finds a  
17 ~~contract, ordinance or resolution~~ municipal regulation under sub. (1) (1r) to be  
18 unreasonable, the ~~contract, ordinance or resolution~~ municipal regulation shall be  
19 void.

20           <sup>(B) 1989P</sup>  
SECTION ~~13~~. 196.58 (4) (b) of the statutes is created to read:

21           196.58 (4) (b) Notwithstanding any provision of this chapter, upon complaint  
22 by a telecommunications provider, including an alternative telecommunications  
23 utility, or a video service provider, the commission shall set a hearing and, if it finds  
24 to be unreasonable any municipal regulation relating to any product or service  
25 rendered by any such provider within a municipality or relating to the terms and

**BILL**

1 conditions upon which such provider occupies the streets, highways, or other public  
2 places within the municipality, the municipal regulation shall be void.

3 <sup>(B) 989E</sup>  
**SECTION 14.** 196.58 (4) (c) of the statutes is created to read:

4 196.58 (4) (c) A municipal regulation is unreasonable under par. (a) or (b) if it  
5 requires a public utility, telecommunications provider, or video service provider to  
6 pay any part of the cost to modify or relocate the public utility's, telecommunications  
7 provider's, or video service provider's facilities to accommodate an urban rail transit  
8 system, as defined in s. 182.017 (1g) (ct).

9 <sup>(B) 989X</sup>  
**SECTION 15.** 196.58 (6) of the statutes is amended to read:

10 196.58 (6) No public utility furnishing and selling gaseous fuel or undertaking  
11 to furnish or sell gaseous fuel in a municipality where the fuel has not been sold  
12 previously to the public shall change the character or kind of fuel by substituting for  
13 manufactured gas any natural gas or any mixture of natural and manufactured gas  
14 for distribution and sale in any municipality, or undertake the sale of natural gas in  
15 any municipality where no gaseous fuel was previously sold, unless the governing  
16 body of the municipality, by authorization, passage or adoption of appropriate  
17 ~~contract, ordinance or resolution~~ municipal regulation, approves and authorizes the  
18 change in fuel or commencement of sale. No ~~contract, ordinance or resolution~~  
19 municipal regulation enacted under this subsection may be inconsistent or in conflict  
20 with any certificate granted under s. 196.49. ✓ ✓ ✓

21 (END)

multichannel video providers from disconnecting a subscriber's video programming service, or a portion of that service, for failure to pay a bill until the unpaid bill is at least 45 days past due.

28. *Oil Pipeline Terminal Tax Distribution Hold Harmless.* Modify the oil pipeline terminal tax distribution to guarantee a minimum payment to municipalities where terminal property is located if the municipality received a payment in 2011. Set the minimum payment equal to the amount received by the municipality in 2011, except as follows. Set the minimum payment for an eligible municipality equal to 50% of the total ad valorem taxes paid to the state by the pipeline company with terminal property in the municipality if the total ad valorem tax paid to the state by that pipeline company is less than 200% of the 2011 state payment to the municipality attributable to that pipeline company. Extend these provisions to terminal tax distributions beginning in 2013.

29. *Individual Income Tax Deduction for Private School Tuition.* Create an individual income tax deduction for tuition paid by a claimant to a private school, as defined under current law, beginning in tax year 2014. Limit the deduction to tuition expenses of up to \$4,000 per year per pupil enrolled in kindergarten through grade eight and \$10,000 per year per pupil enrolled in grades nine through twelve. Define claimant as an individual who claims a pupil as a dependent for federal income tax purposes on his or her tax return; define pupil as an individual who is enrolled in kindergarten or grades one to twelve and who is a dependent of the claimant for federal income tax purposes; and define tuition as any amount paid by a claimant, in the year to which the claim relates, for a pupil's tuition to attend a private school, as defined under current law, that meets all the criteria for a private school, as enumerated under current law. Decrease estimated individual income tax collections by \$30,000,000 (GPR-Tax) in 2014-15.

60071  
30. *Utility Relocation Costs.* Modify Motion #115, Utility Relocation Costs to Accommodate Urban Rail Transit Systems, to amend the current law definition of "urban rail transit systems" by specifying that the system provides transportation by rail in a municipality and that the system begins service on or after the general effective date of the bill. Specify that the provisions identifying certain municipal regulations as unreasonable do not apply to a current law provision that prohibits utility lines or systems from obstructing or incommoding the public use of any highway, bridge, stream, or body of water.

### **Transportation and Property Tax Relief**

31. *Mass Transit Operating Assistance.* Reduce funding by \$1,064,900 SEG in 2013-14 and \$3,194,300 GPR in 2014-15 to provide a 4% increase in mass transit aids beginning in calendar year 2015, rather than in calendar year 2014. Delete the Governor's recommendation to convert the mass transit operating assistance program funding from the transportation fund to the general fund and instead transfer \$107,543,200 in general fund revenues, on a one-time basis, to the transportation fund in the 2013-15 biennium to provide the funding needed to pay the \$107,543,200 in 2014-15 transit aid from the transportation fund. Delete \$107,543,200 GPR and provide \$107,543,200 SEG in 2014-15 to reflect the restoration of mass transit funding to the transportation fund.

32. *General Transportation Aids -- Municipalities.* Provide \$4,778,100 SEG in 2014-15, establish the municipal calendar year distribution amount at \$321,260,500 for 2015 and

## BILL

Mark  
Motion 999, item 30

Current law also authorizes a city, village, or town (municipality) to impose reasonable regulations on use of rights-of-way by certain persons, including certain domestic corporations, cooperative associations, telecommunications providers, and video service providers. Under the bill, a municipal regulation under that authority may not require such a person to pay any part of the cost to modify or relocate the person's facilities to accommodate an urban rail transit system in a municipality if the system begins service on or after the bill's effective date. The bill defines "municipal regulation" as any contract, ordinance, resolution, order, or other regulation entered into, enacted, or issued by a municipality before, on, or after the bill's effective date. The bill also provides that the foregoing requirements apply to any corporation, not just a domestic corporation, and apply to other business entities, such as limited liability companies and partnerships.

Current law also allows the Public Service Commission (PSC) to review complaints about the reasonableness of a municipality's regulation of a public utility's product, service, or occupation of streets, highways, or other public places within the municipality. If the PSC finds that the regulation is unreasonable, the regulation is void. The bill specifies that such a regulation is unreasonable, and therefore void, if it requires a public utility to pay any part of the cost to modify or relocate the public utility's facilities to accommodate an urban rail transit system in a municipality if the system begins service on or after the bill's effective date. In addition, the bill specifies that the foregoing requirements apply to video service providers, as well as to public utilities regulated as alternative telecommunications utilities by the PSC. Also, the foregoing requirements apply to a "municipal regulation," which is defined as described above.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1        **SECTION 1.** 20.395 (1) (br) of the statutes is repealed.
- 2        **SECTION 2.** 20.395 (1) (bt) of the statutes is repealed.
- 3        **SECTION 3.** 85.063 (title) and (1) (intro.) and (b) of the statutes are repealed.
- 4        **SECTION 4.** 85.063 (1) (c) of the statutes is renumbered 182.017 (1g) (ct) and
- 5        amended to read:
- 6        182.017 (1g) (ct) "Urban rail transit system" means a system, either publicly
- 7        or privately owned, which ~~will provide~~ provides transportation by rail in a

motion renumbers only  
done  
Motion 999

## BILL

motion 999<sup>3</sup>-

1 municipality to the public on a regular and continuing basis and which begins service  
2 on or after the effective date of this paragraph .... [LRB inserts date].

3 SECTION 5. 85.063 (2) and (3) of the statutes are repealed.

4 SECTION 6. 182.017 (1g) (b) 1. of the statutes is amended to read:

5 182.017 (1g) (b) 1. A domestic corporation, limited liability company,  
6 partnership, or other business entity organized to furnish telegraph or  
7 telecommunications service or transmit heat, power, or electric current to the public  
8 or for public purposes.

9 SECTION 7. 182.017 (1g) (bm) of the statutes is created to read:

10 182.017 (1g) (bm) "Municipal regulation" means any contract, ordinance,  
11 resolution, order, or other regulation entered into, enacted, or issued by a  
12 municipality before, on, or after the effective date of this paragraph .... [LRB inserts  
13 date].

14 SECTION 8. 182.017 (8) (a) of the statutes is amended to read:

15 182.017 (8) (a) Upon complaint by a company that a regulation by a  
16 municipality under sub. (1r) is unreasonable, the commission shall set a hearing and,  
17 if the commission finds that the regulation is unreasonable, the regulation shall be  
18 void. If Subject to pars. (am) to (c), if the commission determines that a municipal  
19 regulation that was in effect on January 1, 2007, and immediately prior to January  
20 9, 2008, or that a community standard, as demonstrated through consistent practice  
21 and custom in the municipality, that was in effect on January 1, 2007, and  
22 immediately prior to January 9, 2008, is substantially the same as the municipal  
23 regulation complained of, there is a rebuttable presumption that the latter  
24 regulation is reasonable.

25 SECTION 9. 182.017 (8) (as) of the statutes is created to read:



## BILL

motion 999 ✓ new

1 182.017 (8) (as) ~~Notwithstanding sub. (2)~~, a municipal regulation is  
2 unreasonable if it requires a company to pay any part of the cost to modify or relocate  
3 the company's facilities to accommodate an urban rail transit system.

4 SECTION 10. 196.58 (1) of the statutes is renumbered 196.58 (1r) and 196.58 (1r)  
5 (a) and (c), as renumbered, are amended to read:

6 196.58 (1r) (a) Determine by ~~contract, ordinance or resolution~~ municipal  
7 regulation the quality and character of each kind of product or service to be furnished  
8 or rendered by any public utility within the municipality and all other terms and  
9 conditions, consistent with this chapter and ch. 197, upon which the public utility  
10 may be permitted to occupy the streets, highways or other public places within the  
11 municipality. The ~~contract, ordinance or resolution~~ municipal regulation shall be in  
12 force and on its face reasonable.

13 (c) Provide a penalty for noncompliance with the provisions of any ~~ordinance~~  
14 ~~or resolution~~ municipal regulation adopted under this subsection.

15 SECTION 11. 196.58 (1g) of the statutes is created to read:

16 196.58 (1g) In this section, "municipal regulation" has the meaning given in  
17 s. 182.017 (1g) (bm).

18 SECTION 12. 196.58 (4) of the statutes is renumbered 196.58 (4) (a) and  
19 amended to read:

20 196.58 (4) (a) Upon complaint made by a public utility or by any qualified  
21 complainant under s. 196.26, the commission shall set a hearing and if it finds a  
22 ~~contract, ordinance or resolution~~ municipal regulation under sub. (1) (1r) to be  
23 unreasonable, the ~~contract, ordinance or resolution~~ municipal regulation shall be  
24 void.

25 SECTION 13. 196.58 (4) (b) of the statutes is created to read:

**BILL**

1           196.58 (4) (b) Notwithstanding any provision of this chapter, upon complaint  
2           by a telecommunications provider, including an alternative telecommunications  
3           utility, or a video service provider, the commission shall set a hearing and, if it finds  
4           to be unreasonable any municipal regulation relating to any product or service  
5           rendered by any such provider within a municipality or relating to the terms and  
6           conditions upon which such provider occupies the streets, highways, or other public  
7           places within the municipality, the municipal regulation shall be void.

8           **SECTION 14.** 196.58 (4) (c) of the statutes is created to read:

9           196.58 (4) (c) ~~Notwithstanding s. 182.017 (2),~~ a municipal regulation is  
10          unreasonable under par. (a) or (b) if it requires a public utility, telecommunications  
11          provider, or video service provider to pay any part of the cost to modify or relocate the  
12          public utility's, telecommunications provider's, or video service provider's facilities  
13          to accommodate an urban rail transit system, as defined in s. 182.017 (1g) (ct).

14          **SECTION 15.** 196.58 (6) of the statutes is amended to read:

15          196.58 (6) No public utility furnishing and selling gaseous fuel or undertaking  
16          to furnish or sell gaseous fuel in a municipality where the fuel has not been sold  
17          previously to the public shall change the character or kind of fuel by substituting for  
18          manufactured gas any natural gas or any mixture of natural and manufactured gas  
19          for distribution and sale in any municipality, or undertake the sale of natural gas in  
20          any municipality where no gaseous fuel was previously sold, unless the governing  
21          body of the municipality, by authorization, passage or adoption of appropriate  
22          ~~contract, ordinance or resolution~~ municipal regulation, approves and authorizes the  
23          change in fuel or commencement of sale. No ~~contract, ordinance or resolution~~

new  
motion  
999

**BILL**

1 municipal regulation enacted under this subsection may be inconsistent or in conflict  
2 with any certificate granted under s. 196.49.

3 (END)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBb0071/R1  
MDK&ARG:sac&wlj:ph

pp2  
RM  
has  
been  
run

LFB:.....Olin (RR) – Utility relocation costs to accomodate urban rail transit systems

**FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION**  
**ASSEMBLY AMENDMENT ,**  
**TO ASSEMBLY BILL 40**

✓  
INSEAT 1-8.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 352, line 5: after that line insert:

3 “SECTION 290g. 20.395 (1) (br) of the statutes is repealed.

4 SECTION 290r. 20.395 (1) (bt) of the statutes is repealed.”.

5 **2.** Page 758, line 4: after that line insert:

6 “SECTION 1564e. 85.063 (title) and (1) (intro.) and (b) of the statutes are  
7 repealed.

8 ~~SECTION 1564m. 85.063 (1) (c) of the statutes is renumbered 182.017 (1g) (ct).~~

9 SECTION 1564s. 85.063 (2) and (3) of the statutes are repealed.”.

10 **3.** Page 881, line 2: after that line insert:

1           **"SECTION 1978d.** 182.017 (1g) (b) 1. of the statutes is amended to read:

2           182.017 (1g) (b) 1. A ~~domestic corporation, limited liability company,~~  
3 ~~partnership, or other business entity~~ organized to furnish telegraph or  
4 telecommunications service or transmit heat, power, or electric current to the public  
5 or for public purposes.

6           **SECTION 1978h.** 182.017 (1g) (bm) of the statutes is created to read:

7           182.017 (1g) (bm) "Municipal regulation" means any contract, ordinance,  
8 resolution, order, or other regulation entered into, enacted, or issued by a  
9 municipality before, on, or after the effective date of this paragraph .... [LRB inserts  
10 date].

11          **SECTION 1978p.** 182.017 (8) (a) of the statutes is amended to read:

12          182.017 (8) (a) Upon complaint by a company that a regulation by a  
13 municipality under sub. (1r) is unreasonable, the commission shall set a hearing and,  
14 if the commission finds that the regulation is unreasonable, the regulation shall be  
15 void. If Subject to pars. (am) to (c), if the commission determines that a municipal  
16 regulation that was in effect on January 1, 2007, and immediately prior to January  
17 9, 2008, or that a community standard, as demonstrated through consistent practice  
18 and custom in the municipality, that was in effect on January 1, 2007, and  
19 immediately prior to January 9, 2008, is substantially the same as the municipal  
20 regulation complained of, there is a rebuttable presumption that the latter  
21 regulation is reasonable.

22          **SECTION 1978t.** 182.017 (8) (as) of the statutes is created to read:

23          182.017 (8) (as) ~~a~~ municipal regulation is unreasonable if it requires a  
24 company to pay any part of the cost to modify or relocate the company's facilities to  
25 accommodate an urban rail transit system."

*Notwithstanding sub. (2), a*

1           **4.** Page 883, line 16: after that line insert:

2           “**SECTION 1989c.** 196.58 (1) of the statutes is renumbered 196.58 (1r), and  
3           196.58 (1r) (a) and (c), as renumbered, are amended to read:

4           196.58 (1r) (a) Determine by ~~contract, ordinance or resolution~~ municipal  
5           regulation the quality and character of each kind of product or service to be furnished  
6           or rendered by any public utility within the municipality and all other terms and  
7           conditions, consistent with this chapter and ch. 197, upon which the public utility  
8           may be permitted to occupy the streets, highways or other public places within the  
9           municipality. The ~~contract, ordinance or resolution~~ municipal regulation shall be in  
10          force and on its face reasonable.

11          (c) Provide a penalty for noncompliance with the provisions of any ~~ordinance~~  
12          ~~or resolution~~ municipal regulation adopted under this subsection.

13          **SECTION 1989g.** 196.58 (1g) of the statutes is created to read:

14          196.58 (1g) In this section, “municipal regulation” has the meaning given in  
15          s. 182.017 (1g) (bm).

16          **SECTION 1989L.** 196.58 (4) of the statutes is renumbered 196.58 (4) (a) and  
17          amended to read:

18          196.58 (4) (a) Upon complaint made by a public utility or by any qualified  
19          complainant under s. 196.26, the commission shall set a hearing and if it finds a  
20          ~~contract, ordinance or resolution~~ municipal regulation under sub. (1) (1r) to be  
21          unreasonable, the ~~contract, ordinance or resolution~~ municipal regulation shall be  
22          void.

23          **SECTION 1989p.** 196.58 (4) (b) of the statutes is created to read:

1           196.58 (4) (b) Notwithstanding any provision of this chapter, upon complaint  
2 by a telecommunications provider, including an alternative telecommunications  
3 utility, or a video service provider, the commission shall set a hearing and, if it finds  
4 to be unreasonable any municipal regulation relating to any product or service  
5 rendered by any such provider within a municipality or relating to the terms and  
6 conditions upon which such provider occupies the streets, highways, or other public  
7 places within the municipality, the municipal regulation shall be void.

8           **SECTION 1989t.** 196.58 (4) (c) of the statutes is created to read:

9           196.58 (4) (c) <sup>e</sup> ~~4~~ municipal regulation is unreasonable under par. (a) or (b) if it  
10 requires a public utility, telecommunications provider, or video service provider to  
11 pay any part of the cost to modify or relocate the public utility's, telecommunications  
12 provider's, or video service provider's facilities to accommodate an urban rail transit  
13 system, as defined in s. 182.017 (1g) (ct).

14           **SECTION 1989x.** 196.58 (6) of the statutes is amended to read:

15           196.58 (6) No public utility furnishing and selling gaseous fuel or undertaking  
16 to furnish or sell gaseous fuel in a municipality where the fuel has not been sold  
17 previously to the public shall change the character or kind of fuel by substituting for  
18 manufactured gas any natural gas or any mixture of natural and manufactured gas  
19 for distribution and sale in any municipality, or undertake the sale of natural gas in  
20 any municipality where no gaseous fuel was previously sold, unless the governing  
21 body of the municipality, by authorization, passage or adoption of appropriate  
22 ~~contract, ordinance or resolution~~ municipal regulation, approves and authorizes the  
23 change in fuel or commencement of sale. No ~~contract, ordinance or resolution~~

✓  
( Notwithstanding s. 182.017 (2), a

1     municipal regulation enacted under this subsection may be inconsistent or in conflict  
2     with any certificate granted under s. 196.49.”.

(END)



## BILL

INSERT 1-8:

Current law also authorizes a city, village, or town (municipality) to impose reasonable regulations on use of rights-of-way by certain persons, including certain domestic corporations, cooperative associations, telecommunications providers, and video service providers. Under the bill, a municipal regulation under that authority may not require such a person to pay any part of the cost to modify or relocate the person's facilities to accommodate an urban rail transit system in a municipality if the system begins service on or after the bill's effective date. The bill defines "municipal regulation" as any contract, ordinance, resolution, order, or other regulation entered into, enacted, or issued by a municipality before, on, or after the bill's effective date. The bill also provides that the foregoing requirements apply to any corporation, not just a domestic corporation, and apply to other business entities, such as limited liability companies and partnerships.

Current law also allows the Public Service Commission (PSC) to review complaints about the reasonableness of a municipality's regulation of a public utility's product, service, or occupation of streets, highways, or other public places within the municipality. If the PSC finds that the regulation is unreasonable, the regulation is void. The bill specifies that such a regulation is unreasonable, and therefore void, if it requires a public utility to pay any part of the cost to modify or relocate the public utility's facilities to accommodate an urban rail transit system in a municipality if the system begins service on or after the bill's effective date. In addition, the bill specifies that the foregoing requirements apply to video service providers, as well as to public utilities regulated as alternative telecommunications utilities by the PSC. Also, the foregoing requirements apply to a "municipal regulation," which is defined as described above.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1        **SECTION 1.** 20.395 (1) (br) of the statutes is repealed.

2        **SECTION 2.** 20.395 (1) (bt) of the statutes is repealed.

3        **SECTION 3.** 85.063 (title) and (1) (intro.) and (b) of the statutes are repealed.

4        **SECTION 4.** 85.063 (1) (c) of the statutes is renumbered 182.017 (1g) (ct) and  
5 amended to read: 1564m. ← (B)

6        182.017 (1g) (ct) "Urban rail transit system" means a system, either publicly  
7 or privately owned, which ~~will provide~~ provides transportation by rail in a

↓

## BILL

INSEPT 1-8 (cont'd):

1 municipality to the public on a regular and continuing basis and which begins service  
2 on or after the effective date of this paragraph .... [LRB inserts date]. ✓

END of INSEPT 1-8

3 **SECTION 5.** 85.063 (2) and (3) of the statutes are repealed.

4 **SECTION 6.** 182.017 (1g) (b) 1. of the statutes is amended to read:

5 182.017 (1g) (b) 1. A domestic corporation, limited liability company,  
6 partnership, or other business entity organized to furnish telegraph or  
7 telecommunications service or transmit heat, power, or electric current to the public  
8 or for public purposes.

9 **SECTION 7.** 182.017 (1g) (bm) of the statutes is created to read:

10 182.017 (1g) (bm) "Municipal regulation" means any contract, ordinance,  
11 resolution, order, or other regulation entered into, enacted, or issued by a  
12 municipality before, on, or after the effective date of this paragraph .... [LRB inserts  
13 date].

14 **SECTION 8.** 182.017 (8) (a) of the statutes is amended to read:

15 182.017 (8) (a) Upon complaint by a company that a regulation by a  
16 municipality under sub. (1r) is unreasonable, the commission shall set a hearing and,  
17 if the commission finds that the regulation is unreasonable, the regulation shall be  
18 void. If Subject to pars. (am) to (c), if the commission determines that a municipal  
19 regulation that was in effect on January 1, 2007, and immediately prior to January  
20 9, 2008, or that a community standard, as demonstrated through consistent practice  
21 and custom in the municipality, that was in effect on January 1, 2007, and  
22 immediately prior to January 9, 2008, is substantially the same as the municipal  
23 regulation complained of, there is a rebuttable presumption that the latter  
24 regulation is reasonable.

25 **SECTION 9.** 182.017 (8) (as) of the statutes is created to read:



State of Wisconsin  
2013 – 2014 LEGISLATURE



LRBb0071/P2  
MDK&ARG:sac&wlj:jf

LFB:.....Olin (RR) – Utility relocation costs to accomodate urban rail transit systems

**FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT ,  
TO ASSEMBLY BILL 40**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 352, line 5: after that line insert:

3 “SECTION 290g. 20.395 (1) (br) of the statutes is repealed.

4 SECTION 290r. 20.395 (1) (bt) of the statutes is repealed.”.

5 **2.** Page 758, line 4: after that line insert:

6 “SECTION 1564e. 85.063 (title) and (1) (intro.) and (b) of the statutes are  
7 repealed.

8 SECTION 1564m. 85.063 (1) (c) of the statutes is renumbered 182.017 (1g) (ct)  
9 and amended to read:

10 182.017 (1g) (ct) “Urban rail transit system” means a system, either publicly  
11 or privately owned, which ~~will provide~~ provides transportation by rail in a

1 municipality to the public on a regular and continuing basis and which begins service  
2 on or after the effective date of this paragraph .... [LRB inserts date].

3 **SECTION 1564s.** 85.063 (2) and (3) of the statutes are repealed.”.

4 **3.** Page 881, line 2: after that line insert:

5 “**SECTION 1978d.** 182.017 (1g) (b) 1. of the statutes is amended to read:

6 182.017 (1g) (b) 1. A ~~domestic corporation,~~ limited liability company,  
7 partnership, or other business entity organized to furnish telegraph or  
8 telecommunications service or transmit heat, power, or electric current to the public  
9 or for public purposes.

10 **SECTION 1978h.** 182.017 (1g) (bm) of the statutes is created to read:

11 182.017 (1g) (bm) “Municipal regulation” means any contract, ordinance,  
12 resolution, order, or other regulation entered into, enacted, or issued by a  
13 municipality before, on, or after the effective date of this paragraph .... [LRB inserts  
14 date].

15 **SECTION 1978p.** 182.017 (8) (a) of the statutes is amended to read:

16 182.017 (8) (a) Upon complaint by a company that a regulation by a  
17 municipality under sub. (1r) is unreasonable, the commission shall set a hearing and,  
18 if the commission finds that the regulation is unreasonable, the regulation shall be  
19 void. ~~If Subject to pars. (am) to (c), if~~ the commission determines that a municipal  
20 regulation that was in effect on January 1, 2007, and immediately prior to January  
21 9, 2008, or that a community standard, as demonstrated through consistent practice  
22 and custom in the municipality, that was in effect on January 1, 2007, and  
23 immediately prior to January 9, 2008, is substantially the same as the municipal

1 regulation complained of, there is a rebuttable presumption that the latter  
2 regulation is reasonable.

3 **SECTION 1978t.** 182.017 (8) (as) of the statutes is created to read:

4 182.017 (8) (as) Notwithstanding sub. (2), a municipal regulation is  
5 unreasonable if it requires a company to pay any part of the cost to modify or relocate  
6 the company's facilities to accommodate an urban rail transit system.”.

7 **4.** Page 883, line 16: after that line insert:

8 “**SECTION 1989c.** 196.58 (1) of the statutes is renumbered 196.58 (1r), and  
9 196.58 (1r) (a) and (c), as renumbered, are amended to read:

10 196.58 (1r) (a) Determine by ~~contract, ordinance or resolution~~ municipal  
11 regulation the quality and character of each kind of product or service to be furnished  
12 or rendered by any public utility within the municipality and all other terms and  
13 conditions, consistent with this chapter and ch. 197, upon which the public utility  
14 may be permitted to occupy the streets, highways or other public places within the  
15 municipality. The ~~contract, ordinance or resolution~~ municipal regulation shall be in  
16 force and on its face reasonable.

17 (c) Provide a penalty for noncompliance with the provisions of any ~~ordinance~~  
18 ~~or resolution~~ municipal regulation adopted under this subsection.

19 **SECTION 1989g.** 196.58 (1g) of the statutes is created to read:

20 196.58 (1g) In this section, “municipal regulation” has the meaning given in  
21 s. 182.017 (1g) (bm).

22 **SECTION 1989L.** 196.58 (4) of the statutes is renumbered 196.58 (4) (a) and  
23 amended to read:

1           196.58 (4) (a) Upon complaint made by a public utility or by any qualified  
2 complainant under s. 196.26, the commission shall set a hearing and if it finds a  
3 ~~contract, ordinance or resolution~~ municipal regulation under sub. (1) (1r) to be  
4 unreasonable, the ~~contract, ordinance or resolution~~ municipal regulation shall be  
5 void.

6           **SECTION 1989p.** 196.58 (4) (b) of the statutes is created to read:

7           196.58 (4) (b) Notwithstanding any provision of this chapter, upon complaint  
8 by a telecommunications provider, including an alternative telecommunications  
9 utility, or a video service provider, the commission shall set a hearing and, if it finds  
10 to be unreasonable any municipal regulation relating to any product or service  
11 rendered by any such provider within a municipality or relating to the terms and  
12 conditions upon which such provider occupies the streets, highways, or other public  
13 places within the municipality, the municipal regulation shall be void.

14           **SECTION 1989t.** 196.58 (4) (c) of the statutes is created to read:

15           196.58 (4) (c) Notwithstanding s. 182.017 (2), a municipal regulation is  
16 unreasonable under par. (a) or (b) if it requires a public utility, telecommunications  
17 provider, or video service provider to pay any part of the cost to modify or relocate the  
18 public utility's, telecommunications provider's, or video service provider's facilities  
19 to accommodate an urban rail transit system, as defined in s. 182.017 (1g) (ct).

20           **SECTION 1989x.** 196.58 (6) of the statutes is amended to read:

21           196.58 (6) No public utility furnishing and selling gaseous fuel or undertaking  
22 to furnish or sell gaseous fuel in a municipality where the fuel has not been sold  
23 previously to the public shall change the character or kind of fuel by substituting for  
24 manufactured gas any natural gas or any mixture of natural and manufactured gas  
25 for distribution and sale in any municipality, or undertake the sale of natural gas in

1 any municipality where no gaseous fuel was previously sold, unless the governing  
2 body of the municipality, by authorization, passage or adoption of appropriate  
3 ~~contract, ordinance or resolution~~ municipal regulation, approves and authorizes the  
4 change in fuel or commencement of sale. No ~~contract, ordinance or resolution~~  
5 municipal regulation enacted under this subsection may be inconsistent or in conflict  
6 with any certificate granted under s. 196.49.”.

7 (END)